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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke Probation
Against:

12 THERESE ANN MENDOZA
13 2524 Fontezuela Drive
Hacienda Heights, CA 91745

14 Registered Nurse License No. 494563

15 Respondent.

Case No. 2004-117

**PETITION TO REVOKE
PROBATION**

16
17 Complainant alleges:

18 PARTIES

19 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Petition to Revoke
20 Probation solely in her official capacity as the Executive Officer of the Board of Registered
21 Nursing, Department of Consumer Affairs (Board).

22 2. On or about August 31, 1993, the Board of Registered Nursing issued
23 Registered Nurse License Number 494563 to Therese Ann Mendoza (Respondent). Effective
24 November 15, 2005, the Board of Registered Nursing in a disciplinary action entitled "In the
25 Matter of Accusation Against Therese Ann Mendoza," Case No. 2004-117, issued a decision,
26 effective November 15, 2005, in which Respondent's Registered Nurse License was revoked.
27 However, the revocation was stayed and Respondent's license was placed on probation for a
28 period of three (3) years with certain terms and conditions. A copy of that decision is attached

as Exhibit A and incorporated by reference. The Registered Nurse License will expire on November 30, 2008, unless renewed.

TERMS OF PROBATION

3. Among the terms and conditions imposed by the Board in Case No. 2004-177, are:

Condition No. 2.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

Condition No. 16

16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, **including alcohol**, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

Condition No. 17

17. **Submit to Tests and Samples.** Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of

1 Respondent's current telephone number at all times. Respondent shall also ensure
2 that messages may be left at the telephone number when she is not available and
3 ensure that reports are submitted directly by the testing agency to the Board, as
4 directed. Any confirmed positive finding shall be reported immediately to the
5 Board by the program and Respondent shall be considered in violation of
6 probation.

7
8 In addition, Respondent, at any time during the period of probation, shall fully
9 cooperate with the Board or any of its representatives, and shall, when requested,
10 submit to such tests and samples as the Board or its representatives may require
11 for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
12 controlled substances.

13
14 If Respondent has a positive drug screen for any substance not legally authorized
15 and not reported to the coordinating physician, nurse practitioner, or physician
16 assistant, and the Board files a petition to revoke probation or an accusation, the
17 Board may suspend Respondent from practice pending the final decision on the
18 petition to revoke probation or the accusation. This period of suspension will not
19 apply to the reduction of this probationary time period.

20
21 If Respondent fails to participate in a random, biological fluid testing or drug
22 screening program within the specified time frame, Respondent shall immediately
23 cease practice and shall not resume practice until notified by the Board. After
24 taking into account documented evidence of mitigation, if the Board files a
25 petition to revoke probation or an accusation, the Board may suspend Respondent
26 from practice pending the final decision on the petition to revoke probation or the
27 accusation. This period of suspension will not apply to the reduction of this
28 probationary time period.

Condition No. 19

19. **Therapy or Counseling Program.** Respondent, at her expense, shall
participate in an on-going counseling program until such time as the Board
releases her from this requirement and only upon the recommendation of the
counselor. Written progress reports from the counselor will be required at various
intervals.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Board of
Registered Nursing (Board), Department of Consumer Affairs, under the authority of the
following laws. All section references are to the Business and Professions Code unless otherwise
indicated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in
pertinent part, that the Board may discipline any licensee, including a licensee holding a
temporary or an inactive license, for any reason provided in Article 3 (commencing with section
2750) of the Nursing Practice Act.

1 FIRST CAUSE TO REVOKE PROBATION

2 (Failure to Abstain from Alcohol)

3 6. Respondent's probation is subject to revocation because she failed to
4 comply with probation condition 16, which requires her to abstain from use of psychotropic
5 (mood-altering) drugs including alcohol, by testing positive for alcohol on May 4, 2006, October
6 17, 2006, November 14, 2006, March 22, 2007, April 19, 2007, May 31, 2007 and June 5, 2007.

7 SECOND CAUSE TO REVOKE PROBATION

8 (Failure to Test)

9 7. Respondent's probation is subject to revocation because she failed to
10 comply with probation condition 17, which requires her to submit to tests and samples, by failing
11 to be available to test or respond to requests for random drug screening on June 22, 2006, July
12 10, 2006 and July 31, 2006.

13 THIRD CAUSE TO REVOKE PROBATION

14 (Failure to Attend Counseling and /or Report)

15 8. Respondent's probation is subject to revocation because she failed to
16 comply with probation condition 19, which requires her to attend a therapy or counseling
17 program in that she failed to submit a completed on-going counseling form by the due date of
18 September 22, 2006.

19 FOURTH CAUSE TO REVOKE PROBATION

20 (Non-Compliance with Probation Program)

21 9. Respondent's probation is subject to revocation because she failed to
22 comply with probation condition 2, which requires her to comply with the Board's probation
23 program, in that she failed to fully comply with the terms and conditions of her probation, as
24 more fully described in paragraph 6, 7, and 8 above.

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1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking the probation that was granted by the Board of Registered
5 Nursing in Case No. 2004-117 and imposing the disciplinary order that was stayed thereby
6 revoking Registered Nurse License No. 494563 issued to Therese Ann Mendoza;

7 2. Revoking or suspending Registered Nurse License No. 494563, issued to
8 Therese Ann Mendoza;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 9/5/07

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13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California

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25 Complainant
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Exhibit A

Decision and Order, and Stipulated Settlement and Disciplinary Order

Board of Registered Nursing Case No. 2004-117

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Therese Ann Mendoza
2524 Fontezuela Drive
Hacienda Heights, CA 91745

Registered Nurse License No. 494563

Respondent

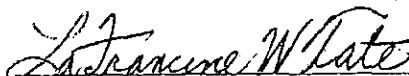
Case No. 2004-117

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on November 15, 2005.

IT IS SO ORDERED October 14, 2005.



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 TERRENCE M. MASON, State Bar No. 158935
Deputy Attorney General
3 California Department of Justice
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5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2004-117

11 THERESE ANN MENDOZA
2524 Fortezuela Drive
12 Hacienda Heights, CA 91745

OAH No. L-2005030738

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 Respondent.
14

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16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
17 above-entitled proceedings that the following matters are true:

18 PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
20 the Board of Registered Nursing. She brought this action solely in her official capacity and is
21 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
22 Terrence M. Mason, Deputy Attorney General.

23 2. Respondent THERESE ANN MENDOZA (Respondent) is represented in
24 this proceeding by attorney David J. Wilzig, whose address is 1801 Century Park East, Ste. 2200,
25 Los Angeles, CA 90067.

26 3. On or about August 31, 1993, the Board of Registered Nursing issued
27 Registered Nurse License No. 494563 to THERESE ANN MENDOZA (Respondent). The
28 license will expire on November 30, 2006, unless renewed.

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unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or

1 returning to practice in this state.

2 Respondent shall provide a list of all states and territories where she has ever been
3 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
4 provide information regarding the status of each license and any changes in such license status
5 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
6 new nursing license during the term of probation.

7 5. **Submit Written Reports.** Respondent, during the period of probation,
8 shall submit or cause to be submitted such written reports/declarations and verification of actions
9 under penalty of perjury, as required by the Board. These reports/declarations shall contain
10 statements relative to Respondent's compliance with all the conditions of the Board's Probation
11 Program. Respondent shall immediately execute all release of information forms as may be
12 required by the Board or its representatives.

13 Respondent shall provide a copy of this Decision to the nursing regulatory agency
14 in every state and territory in which she has a registered nurse license.

15 6. **Function as a Registered Nurse.** Respondent, during the period of
16 probation, shall engage in the practice of registered nursing in California for a minimum of 24
17 hours per week for 6 consecutive months or as determined by the Board.

18 For purposes of compliance with the section, "engage in the practice of registered
19 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
20 work in any non-direct patient care position that requires licensure as a registered nurse.

21 The Board may require that advanced practice nurses engage in advanced practice
22 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
23 Board.

24 If Respondent has not complied with this condition during the probationary term,
25 and Respondent has presented sufficient documentation of her good faith efforts to comply with
26 this condition, and if no other conditions have been violated, the Board, in its discretion, may
27 grant an extension of Respondent's probation period up to one year without further hearing in
28 order to comply with this condition. During the one year extension, all original conditions of

1 probation shall apply.

2 7. **Employment Approval and Reporting Requirements.** Respondent
3 shall obtain prior approval from the Board before commencing or continuing any employment,
4 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
5 performance evaluations and other employment related reports as a registered nurse upon request
6 of the Board.

7 Respondent shall provide a copy of this Decision to her employer and immediate
8 supervisors prior to commencement of any nursing or other health care related employment.

9 In addition to the above, Respondent shall notify the Board in writing within
10 seventy-two (72) hours after she obtains any nursing or other health care related employment.
11 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
12 terminated or separated, regardless of cause, from any nursing, or other health care related
13 employment with a full explanation of the circumstances surrounding the termination or
14 separation.

15 8. **Supervision.** Respondent shall obtain prior approval from the Board
16 regarding Respondent's level of supervision and/or collaboration before commencing or
17 continuing any employment as a registered nurse, or education and training that includes patient
18 care.

19 Respondent shall practice only under the direct supervision of a registered nurse
20 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
21 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
22 are approved.

23 Respondent's level of supervision and/or collaboration may include, but is not
24 limited to the following:

25 (a) Maximum - The individual providing supervision and/or collaboration is
26 present in the patient care area or in any other work setting at all times.

27 (b) Moderate - The individual providing supervision and/or collaboration is in
28 the patient care unit or in any other work setting at least half the hours Respondent works.

1 (c) Minimum - The individual providing supervision and/or collaboration has
2 person-to-person communication with Respondent at least twice during each shift worked.

3 (d) Home Health Care - If Respondent is approved to work in the home health
4 care setting, the individual providing supervision and/or collaboration shall have person-to-
5 person communication with Respondent as required by the Board each work day. Respondent
6 shall maintain telephone or other telecommunication contact with the individual providing
7 supervision and/or collaboration as required by the Board during each work day. The individual
8 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
9 site visits to patients' homes visited by Respondent with or without Respondent present.

10 9. **Employment Limitations.** Respondent shall not work for a nurse's
11 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
12 traveling nurse, or for an in-house nursing pool.

13 Respondent shall not work for a licensed home health agency as a visiting nurse
14 unless the registered nursing supervision and other protections for home visits have been
15 approved by the Board. Respondent shall not work in any other registered nursing occupation
16 where home visits are required.

17 Respondent shall not work in any health care setting as a supervisor of registered
18 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
19 nurses and/or unlicensed assistive personnel on a case-by-case basis.

20 Respondent shall not work as a faculty member in an approved school of nursing
21 or as an instructor in a Board approved continuing education program.

22 Respondent shall work only on a regularly assigned, identified and predetermined
23 worksite(s) and shall not work in a float capacity.

24 If Respondent is working or intends to work in excess of 40 hours per week, the
25 Board may request documentation to determine whether there should be restrictions on the hours
26 of work.

27 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
28 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later

1 than six months prior to the end of her probationary term.

2 Respondent shall obtain prior approval from the Board before enrolling in the
3 course(s). Respondent shall submit to the Board the original transcripts or certificates of
4 completion for the above required course(s). The Board shall return the original documents to
5 Respondent after photocopying them for its records.

6 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
7 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
8 amount of \$7,322.00. Respondent shall be permitted to pay these costs in a payment plan
9 approved by the Board, with payments to be completed no later than three months prior to the
10 end of the probation term.

11 If Respondent has not complied with this condition during the probationary term,
12 and Respondent has presented sufficient documentation of her good faith efforts to comply with
13 this condition, and if no other conditions have been violated, the Board, in its discretion, may
14 grant an extension of Respondent's probation period up to one year without further hearing in
15 order to comply with this condition. During the one year extension, all original conditions of
16 probation will apply.

17 12. **Violation of Probation.** If Respondent violates the
18 conditions of her probation, the Board after giving Respondent notice and an opportunity to be
19 heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of
20 Respondent's license.

21 If during the period of probation, an accusation or petition to revoke probation has
22 been filed against Respondent's license or the Attorney General's Office has been requested to
23 prepare an accusation or petition to revoke probation against Respondent's license, the
24 probationary period shall automatically be extended and shall not expire until the accusation or
25 petition has been acted upon by the Board.

26 13. **License Surrender.** During Respondent's term of probation, if she ceases
27 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
28 probation, Respondent may surrender her license to the Board. The Board reserves the right to
evaluate Respondent's request and to exercise its discretion whether to grant the request, or to

1 take any other action deemed appropriate and reasonable under the circumstances, without
2 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
3 will no longer be subject to the conditions of probation.

4 Surrender of Respondent's license shall be considered a disciplinary action and
5 shall become a part of Respondent's license history with the Board. A registered nurse whose
6 license has been surrendered may petition the Board for reinstatement no sooner than the
7 following minimum periods from the effective date of the disciplinary decision:

8 (1) Two years for reinstatement of a license that was surrendered for any
9 reason other than a mental or physical illness; or

10 (2) One year for a license surrendered for a mental or physical illness.

11 14. **Physical Examination.** Within 45 days of the effective date of this
12 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
13 physician assistant, who is approved by the Board before the assessment is performed, submit an
14 assessment of the Respondent's physical condition and capability to perform the duties of a
15 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
16 medically determined, a recommended treatment program will be instituted and followed by the
17 Respondent with the physician, nurse practitioner, or physician assistant providing written
18 reports to the Board on forms provided by the Board.

19 If Respondent is determined to be unable to practice safely as a registered nurse,
20 the licensed physician, nurse practitioner, or physician assistant making this determination shall
21 immediately notify the Board and Respondent by telephone, and the Board shall request that the
22 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
23 shall immediately cease practice and shall not resume practice until notified by the Board.
24 During this period of suspension, Respondent shall not engage in any practice for which a license
25 issued by the Board is required until the Board has notified Respondent that a medical
26 determination permits Respondent to resume practice. This period of suspension will not apply
27 to the reduction of this probationary time period.

28 If Respondent fails to have the above assessment submitted to the Board within

1 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
2 practice until notified by the Board. This period of suspension will not apply to the reduction of
3 this probationary time period. The Board may waive or postpone this suspension only if
4 significant, documented evidence of mitigation is provided. Such evidence must establish good
5 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
6 provided. Only one such waiver or extension may be permitted.

7 **15. Participate in Treatment/Rehabilitation Program for Chemical**
8 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
9 period or shall have successfully completed *prior to commencement of probation* a Board-
10 approved treatment/rehabilitation program of at least six months duration. As required, reports
11 shall be submitted by the program on forms provided by the Board. If Respondent has not
12 completed a Board-approved treatment/rehabilitation program prior to commencement of
13 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
14 a program. If a program is not successfully completed within the first nine months of probation,
15 the Board shall consider Respondent in violation of probation.

16 Based on Board recommendation, each week Respondent shall be required to
17 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
18 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
19 by the Board. If a nurse support group is not available, an additional 12-step meeting or
20 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
21 such attendance to the Board during the entire period of probation. Respondent shall continue
22 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
23 mental health examiner and/or other ongoing recovery groups.

24 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
25 shall completely abstain from the possession, injection or consumption by any route of all
26 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
27 the same are ordered by a health care professional legally authorized to do so as part of
28 documented medical treatment. Respondent shall have sent to the Board, in writing and within

1 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
2 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
3 medication will no longer be required, and the effect on the recovery plan, if appropriate.

4 Respondent shall identify for the Board a single physician, nurse practitioner or
5 physician assistant who shall be aware of Respondent's history of substance abuse and will
6 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
7 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
8 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
9 condition. If any substances considered addictive have been prescribed, the report shall identify a
10 program for the time limited use of any such substances.

11 The Board may require the single coordinating physician, nurse practitioner, or
12 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
13 addictive medicine.

14 **17. Submit to Tests and Samples.** Respondent, at her expense, shall
15 participate in a random, biological fluid testing or a drug screening program which the Board
16 approves. The length of time and frequency will be subject to approval by the Board.
17 Respondent is responsible for keeping the Board informed of Respondent's current telephone
18 number at all times. Respondent shall also ensure that messages may be left at the telephone
19 number when she is not available and ensure that reports are submitted directly by the testing
20 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
21 to the Board by the program and Respondent shall be considered in violation of probation.

22 In addition, Respondent, at any time during the period of probation, shall fully
23 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
24 tests and samples as the Board or its representatives may require for the detection of alcohol,
25 narcotics, hypnotics, dangerous drugs, or other controlled substances.

26 If Respondent has a positive drug screen for any substance not legally authorized
27 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
28 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent

1 from practice pending the final decision on the petition to revoke probation or the accusation.
2 This period of suspension will not apply to the reduction of this probationary time period.

3 If Respondent fails to participate in a random, biological fluid testing or drug
4 screening program within the specified time frame, Respondent shall immediately cease practice
5 and shall not resume practice until notified by the Board. After taking into account documented
6 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
7 Board may suspend Respondent from practice pending the final decision on the petition to
8 revoke probation or the accusation. This period of suspension will not apply to the reduction of
9 this probationary time period.

10 18. **Mental Health Examination.** Respondent shall, within 45 days of the
11 effective date of this Decision, have a mental health examination including psychological testing
12 as appropriate to determine her capability to perform the duties of a registered nurse. The
13 examination will be performed by a psychiatrist, psychologist or other licensed mental health
14 practitioner approved by the Board. The examining mental health practitioner will submit a
15 written report of that assessment and recommendations to the Board. All costs are the
16 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
17 result of the mental health examination will be instituted and followed by Respondent.

18 If Respondent is determined to be unable to practice safely as a registered nurse,
19 the licensed mental health care practitioner making this determination shall immediately notify
20 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
21 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
22 practice and may not resume practice until notified by the Board. During this period of
23 suspension, Respondent shall not engage in any practice for which a license issued by the Board
24 is required, until the Board has notified Respondent that a mental health determination permits
25 Respondent to resume practice. This period of suspension will not apply to the reduction of this
26 probationary time period.

27 If Respondent fails to have the above assessment submitted to the Board within
28 the 45-day requirement, Respondent shall immediately cease practice and shall not resume


practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David J. Wilzig. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 5/24/05


THERESE ANN MENDOZA
Respondent

I have read and fully discussed with Respondent THERESE ANN MENDOZA the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/27/05

David J. Wilzig

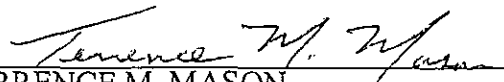
DAVID J. WILZIG
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 6/1/05.

BILL LOCKYER, Attorney General
of the State of California


TERRENCE M. MASON
Deputy Attorney General

Attorneys for Complainant

DOJ Docket/Matter ID Number: 03579110-LA2003600786
MendozaStipulation.wpd

Exhibit A
Accusation No. 2004-117

1 BILL LOCKYER, Attorney General
of the State of California
2 TERRENCE MASON, State Bar No. 158935
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-6294
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 2004-117

12 THERESE ANN MENDOZA
2524 Fontezuela Drive
13 Hacienda Heights, CA 91745

A C C U S A T I O N

14 Registered Nurse License No. 494563

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
21 (Board), California Department of Consumer Affairs.

22 2. On or about August 31, 1993, the Board of Registered Nursing issued
23 Registered Nurse License Number 494563 to Therese Ann Mendoza (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on November 30, 2004, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board under the authority of the
28 following laws. All section references are to the Business and Professions Code unless otherwise

1 indicated.

2 STATUTORY PROVISIONS

3 4. Section 2750 provides that the Board may discipline any licensee for any
4 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5 5. Pursuant to Section 2761 the Board may take disciplinary action against a
6 licensed nurse for unprofessional conduct

7 6. Pursuant to Section 2762, it is unprofessional conduct for a licensed nurse
8 to person licensed under this chapter to:

9 (a) Obtain or possess in violation of law or administer to herself, any
10 controlled substance as defined in Division 10 (commencing with Section 11000)
11 of the Health and Safety Code or any dangerous drug or dangerous device as
12 defined in Section 4022.

13 (b) Use any controlled substance or any dangerous drug or dangerous
14 device as defined in Section 4022, or alcoholic beverages, to an extent or in a
15 manner dangerous or injurious to herself, any other person, or the public or to the
16 extent that such use impairs her ability to conduct with safety to the public the
17 practice authorized by her license.

18 7. Section 125.3 provides that the Board may request the administrative law
19 judge to direct a licentiate found to have committed a violation or violations of the licensing act
20 to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

21 DRUGS

22 8. Fentanyl, a narcotic analgesic in the opiate family, is a Schedule II
23 controlled substance pursuant to Health and Safety Code section 11055(c)(8).

24 FACTUAL SUMMARY

25 9. On or about December 6, 2000, while working as a registered nurse at Los
26 Angeles County USC Medical Center, Respondent used a syringe to withdraw Fentanyl from a
27 patient's IV bottle. Respondent had been diverting and self administering Fentanyl during the
28 previous month.

1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 10. Respondent's license is subject to disciplinary action for unprofessional
4 conduct pursuant to Section 2761 in that, as described in paragraph 9, she obtained and/or
5 possessed and/or administered Fentanyl to herself, in violation of Section 2762(a).

6 11. Respondent's license is subject to disciplinary action for unprofessional
7 conduct pursuant to Section 2761 in that, as described in paragraph 9, Respondent used Fentanyl
8 to an extent or in a manner dangerous or injurious to herself in violation of Section 2762(b).

9 12. Respondent's license is subject to disciplinary action for unprofessional
10 conduct pursuant to Section 2761 in that, as described in paragraph 9, Respondent used Fentanyl
11 to an extent or in a manner dangerous or injurious to herself, any other person, or the public or to
12 the extent that such use impaired her ability to conduct with safety to the public the practice of
13 registered nursing in violation of Section 2762(b).

14 13. Respondent's license is subject to disciplinary action for unprofessional
15 conduct pursuant to Section 2761 in that, as described in paragraph 9, Respondent diverted
16 Fentanyl while it was being infused into a patient, in violation of Section 2762(a).

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 494563, issued
21 to Therese Ann Mendoza;

22 2. Ordering Therese Ann Mendoza to pay the Board of Registered Nursing
23 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
24 Professions Code section 125.3;

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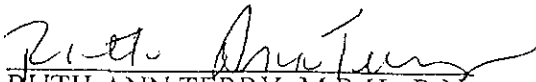
3.

ACCUSATION

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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/1/03


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Accusation.wpd
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